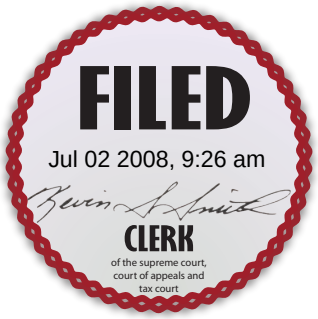

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IN THE
COURT OF APPEALS OF INDIANA

TOMIKA JOHNSON,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0712-CR-1085
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Mark Stoner, Judge
Cause No. 49G06-0706-FC-101780

July 2, 2008

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

Tomika Johnson ("Johnson") pleaded guilty in Marion Superior Court to Class C felony fraud on a financial institution and Class C felony forgery. Johnson appeals and presents the following issue of whether his sentence is inappropriate in light of the nature of the offense and the character of the offender.

We affirm.

Facts and Procedural History

On May 31, 2007, Johnson presented a fraudulent check to a bank with the intent to defraud the bank. The State charged Johnson with Class C felony fraud on a financial institution, Class C felony forgery, and Class D felony theft. Johnson pleaded guilty to the fraud and forgery charges under a written plea agreement that called for a six-year cap on executed time for both felonies. The trial court accepted the guilty plea and sentenced Johnson to a term of six years, with four years executed and two years suspended to probation. Johnson appeals.

Discussion and Decision

Johnson argues that under the circumstances of this case, her sentence was inappropriate. Appellate courts have the constitutional authority to revise a sentence if, after consideration of the trial court's decision, the court concludes the sentence is inappropriate in light of the nature of the offense and character of the offender. Ind. Appellate Rule 7(B) (2007); Marshall v. State, 832 N.E.2d 615, 624 (Ind. Ct. App. 2005), trans. denied. "[A] defendant must persuade the appellate court that his or her sentence has met the inappropriateness standard of review." Anglemyer v. State, 868 N.E.2d 482,

494 (Ind. 2007).[1] Additionally, "[S]entencing decisions rest within the sound discretion of the trial court and are reviewed on appeal only for an abuse of discretion." Id. at 490.

Johnson is essentially asking that we reweigh the aggravating and mitigating factors. This argument has been rejected by our Supreme Court in Anglemeyer v. State, 868 N.E.2d 482, 491 (Ind. 2007) ("Because the trial court no longer has any obligation to 'weigh' aggravating and mitigating factors against each other when imposing a sentence, unlike the pre-Blakely statutory regime, a trial court can not now be said to have abused its discretion in failing to 'properly weigh' such factors.")

Additionally, the sentence is not inappropriate in light of the nature of the offense and character of the offender. Johnson has been convicted of Class C felony forgery on two prior occasions. She violated probation after each conviction. Accordingly, we conclude that Johnson's sentence is not inappropriate based on the nature of the offense and the character of the offender.

Affirmed.

MAY, J., and VAIDIK, J., concur.

[1] See Childress v. State, 848 N.E.2d 1073, 1081 (Ind. 2006) (Dickson, J., concurring) ("A defendant's conscious choice to enter a plea agreement that limits the trial court's discretion to a sentence less than the statutory maximum should usually be understood as strong and persuasive evidence of sentence reasonableness and appropriateness.")